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SH 2479783

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LOS ANGLES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

JACKIE LACEY • District Attorney
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VICTORIA L. ADAMS • Assistant District Attorney

JAMES GARRISON • Director

April 15, 2020

Captain Kent Wegener
Los Angeles County Sheriff's Department
Homicide Bureau
1 Cupania Circle
Monterey Park, California 91755

Re: Officer Involved Shooting of [redacted] and [redacted]
J.S.I.D. File #19-0141
L.A.S.D. File #019-04836-2835-055

Dear Captain Wegener:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the March 31, 2019, non-fatal shooting of [redacted] and [redacted] by members of the Los Angeles County Sheriff's Department. Our detailed analysis of this incident is contained in the attached memorandum.

Very truly yours,

JACKIE LACEY
District Attorney

By

SHANNON PRESBY
Head Deputy District Attorney
Justice System Integrity Division

c: Deputy Eric Moreno, #[redacted]
Deputy Eugene Contreras, #[redacted]

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MEMORANDUM

TO: CAPTAIN KENT WEGENER
Los Angeles County Sheriff's Department
Homicide Bureau
1 Cupania Circle
Monterey Park, California 91755

FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: Officer Involved Shooting of [redacted] and [redacted]
J.S.I.D. File #19-0141
L.A.S.D. File #019-04836-2835-055

DATE: April 15, 2020

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the March 31, 2019, non-fatal shooting of [redacted] and [redacted] by Los Angeles County Sheriff's Department (LASD) Deputies Eric Moreno and Eugene Contreras. It is our conclusion that Moreno and Contreras acted in lawful self-defense and defense of others.

The District Attorney's Command Center was notified of the shooting on April 1, 2019, at approximately 12:22 a.m. The District Attorney Response Team responded and was given a briefing and a walk-through of the scene.

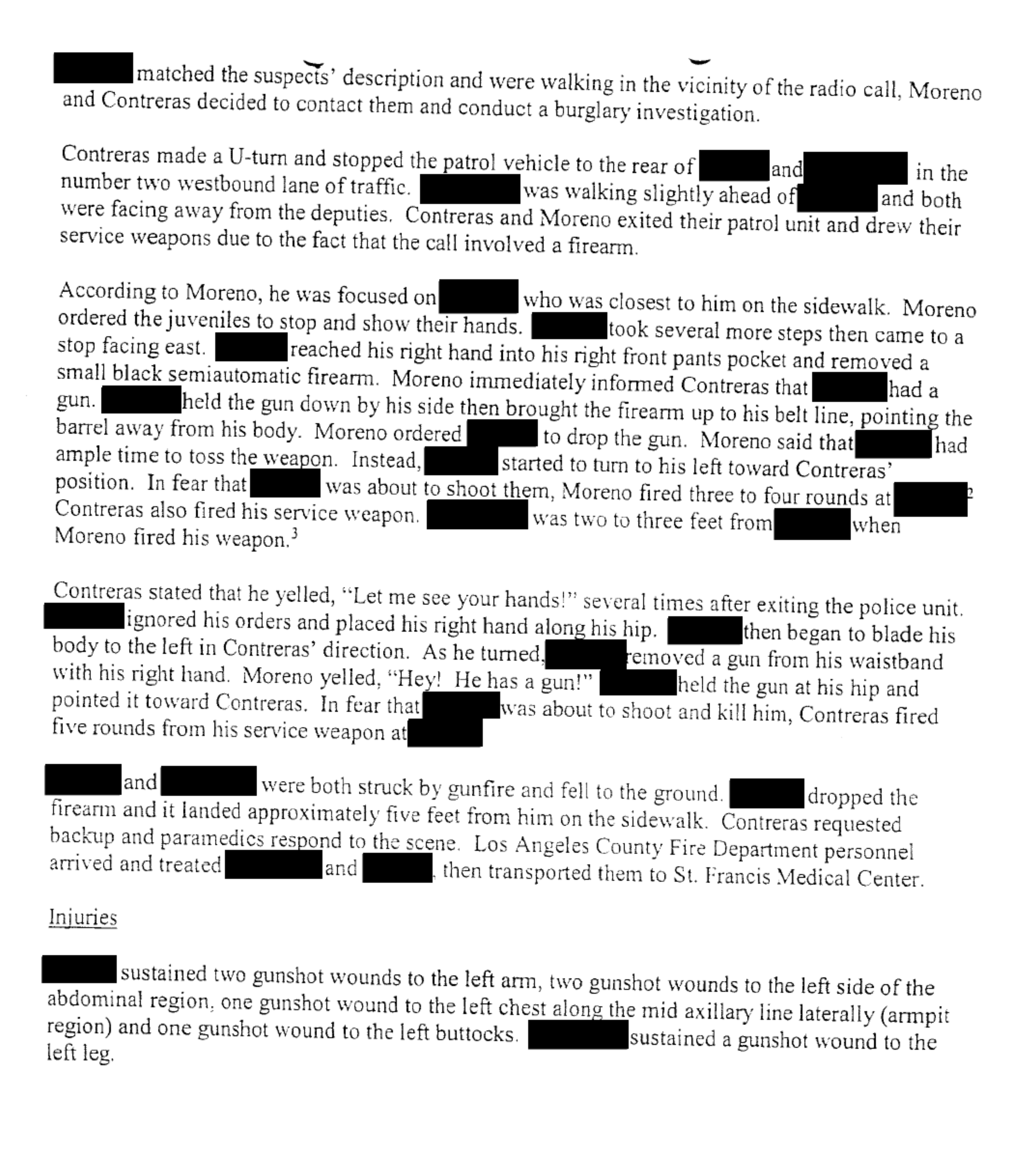
The following analysis is based on police and investigative reports, audio recorded interviews, forensic analysis and photographic evidence submitted to this office by Sergeant Howard Cooper and Detective Jason Marx, LASD, Homicide Bureau. Deputies Moreno and Contreras provided voluntary statements which were considered as part of this analysis.

FACTUAL ANALYSIS

On March 31, 2019, at 10:38 p.m., LASD deputies responded to a call of a possible assault with a deadly weapon and vehicle burglary in the 700 block of West Tichenor Street in the City of Compton. A resident reported that two males attempted to break into his vehicle. When the resident confronted the burglars, one fired a gun into the air. One suspect was carrying a backpack and the other was wearing a hoodie.

Uniformed LASD Deputies Eric Moreno and Eugene Contreras responded to the area and began to canvas the neighborhood in their marked patrol vehicle. As Contreras drove west on Alondra Boulevard, the deputies observed two males walking east on the south sidewalk. One male, later identified as [redacted] was carrying a backpack. The other male, later identified as [redacted] was wearing a black shirt with a hoodie thrown over his shoulder.[1] Due to the fact that [redacted] and

[1] [redacted] was 15 years old and [redacted] was 17 years old.


[redacted] matched the suspects' description and were walking in the vicinity of the radio call, Moreno and Contreras decided to contact them and conduct a burglary investigation.

Contreras made a U-turn and stopped the patrol vehicle to the rear of [redacted] and [redacted] in the number two westbound lane of traffic. [redacted] was walking slightly ahead of [redacted] and both were facing away from the deputies. Contreras and Moreno exited their patrol unit and drew their service weapons due to the fact that the call involved a firearm.

According to Moreno, he was focused on [redacted] who was closest to him on the sidewalk. Moreno ordered the juveniles to stop and show their hands. [redacted] took several more steps then came to a stop facing east. [redacted] reached his right hand into his right front pants pocket and removed a small black semiautomatic firearm. Moreno immediately informed Contreras that [redacted] had a gun. [redacted] held the gun down by his side then brought the firearm up to his belt line, pointing the barrel away from his body. Moreno ordered [redacted] to drop the gun. Moreno said that [redacted] had ample time to toss the weapon. Instead, [redacted] started to turn to his left toward Contreras' position. In fear that [redacted] was about to shoot them, Moreno fired three to four rounds at [redacted][2] Contreras also fired his service weapon. [redacted] was two to three feet from [redacted] when Moreno fired his weapon.[3]

Contreras stated that he yelled, "Let me see your hands!" several times after exiting the police unit. [redacted] ignored his orders and placed his right hand along his hip. [redacted] then began to blade his body to the left in Contreras' direction. As he turned, [redacted] removed a gun from his waistband with his right hand. Moreno yelled, "Hey! He has a gun!" [redacted] held the gun at his hip and pointed it toward Contreras. In fear that [redacted] was about to shoot and kill him, Contreras fired five rounds from his service weapon at [redacted]

[redacted] and [redacted] were both struck by gunfire and fell to the ground. [redacted] dropped the firearm and it landed approximately five feet from him on the sidewalk. Contreras requested backup and paramedics respond to the scene. Los Angeles County Fire Department personnel arrived and treated [redacted] and [redacted], then transported them to St. Francis Medical Center.

Injuries

[redacted] sustained two gunshot wounds to the left arm, two gunshot wounds to the left side of the abdominal region, one gunshot wound to the left chest along the mid axillary line laterally (armpit region) and one gunshot wound to the left buttocks. [redacted] sustained a gunshot wound to the left leg.

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[2] An examination of Moreno's service weapon determined that he fired three rounds.
[3] Moreno stated that [redacted] was walking slightly ahead of [redacted] when he first observed them, which would be to [redacted]'s east.



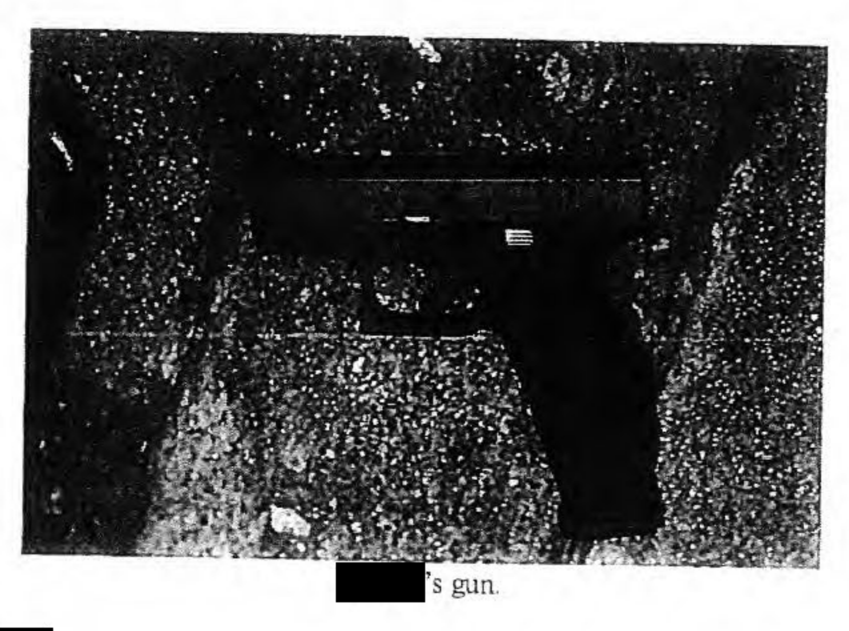
Location of [redacted] and the patrol unit during of the shooting.
Location of the gun after [redacted] dropped it.



Closer view of the gun on the south sidewalk of West Alondra Boulevard.

Recovered Firearm

A Glock, model 42, .380 caliber semiautomatic firearm was recovered from the south sidewalk of Alondra Boulevard. It was loaded with one live round in the chamber and two live rounds in the magazine.



[redacted]'s gun.

Statement of [redacted]

[redacted] found the gun earlier that night and was carrying it in his right front pants pocket. The police vehicle quickly rolled up on him and [redacted] from behind and flashed their lights. The deputies asked, "What are you guys doing?" [redacted] became scared and decided to toss the gun. While turned to his left, he removed the gun from his pocket. It was, however, "too late" and the deputies started shooting. [redacted] believed the deputies thought he was going to shoot them. [redacted] denied trying to break into cars before the shooting and does not remember firing the gun during a confrontation with a resident. He and [redacted] had been smoking marijuana, drinking beer and taking Xanax.

Statement of [redacted]

[redacted] and [redacted] were walking on Alondra Boulevard when a police vehicle made a U-turn and approached them from behind. [redacted] was wearing red clothing and shoes and was carrying a black backpack. The deputies flashed their lights. [redacted] turned toward the police vehicle and saw Moreno exit, followed immediately by multiple gunshots. The deputies did not say anything to them before firing. [redacted] and [redacted] were struck by gunfire and fell to the ground.

[redacted] admitted looking into parked cars for property before the shooting. He denied breaking into them because they were locked. Initially, [redacted] said he was not aware that [redacted] had a gun. He later said they found the "Glock" in an empty lot near the airport. [redacted] then changed his story claiming a friend found the gun and gave it to them a week earlier. [redacted] denied having the gun at the time of shooting, and refused to admit that [redacted] was carrying it. He denied that [redacted] drew the gun before the shooting.

Vehicle Burglaries

In addition to the attempted vehicle burglary in the 700 block of West Tichenor Street, investigators discovered that five other vehicles in the immediate area had been burglarized. (See photo below.) Property from three of the burglaries was recovered from [redacted]s backpack.

An expended .380 caliber casing was located on the street approximately 25 yards west of the West Tichenor Street residence that was the source of the 9-1-1 call.

Prior to the shooting, a victim to one of the burglaries on West Alondra Boulevard, searched the surrounding neighborhood for possible suspects. She observed a male standing in front of a residence on West Raymond Street holding a small black pistol. A second male dressed in red was rummaging through a vehicle parked in the driveway. Property from that vehicle was recovered in [redacted]s backpack.

WEST ALONDRA BOULEVARD

WEST RAYMOND STREET

N

WEST TICHENOR STREET

The stars indicate the locations of the six vehicle burglaries.
The red circle indicates the location of the deputy involved shooting.

LEGAL ANALYSIS

The use of deadly force in self-defense or in defense of another is justifiable if the person claiming the right actually and reasonably believed (1) that he or the person he was defending was in imminent danger of being killed or suffering great bodily injury, (2) that the immediate use of force was necessary to defend against that danger, and (3) that he used no more force than was reasonably necessary to defend against that danger. See, *CALCRIM No. 505*.

A police officer may use reasonable force to effect an arrest, prevent escape, or overcome resistance of a person the officer believes has committed a crime. Penal Code section 835a. An officer "may use all the force that appears to him to be necessary to overcome all resistance, even to the taking of life; [an officer is justified in taking a life if] the resistance [is] such as appears to the officer likely to inflict great bodily injury upon himself or those acting with him." *People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1146.

In evaluating whether a police officer's use of deadly force was reasonable in a specific situation, it is helpful to draw guidance from the objective standard of reasonableness adopted in civil actions alleging Fourth Amendment violations. "The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight… The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation." *Graham v. Connor* (1989) 490 U.S. 386, 396-397.

"Under the doctrine of transferred intent, self-defense may also apply where the defendant intends to injure or kill the person who poses the threat, but inadvertently kills an innocent bystander instead." *People v. Curtis* (1994) 30 Cal.App.4th 1337,1357; see also *People v. Matthews* (1979) 91 Cal.App.3d 1018, 1024.

CONCLUSION

The evidence shows Moreno and Contreras were attempting to stop [redacted] and [redacted] because they matched the description of burglary suspects in the area. The deputies were aware that at least one of the burglary suspects was armed with a firearm. The subsequent investigation determined that [redacted] and [redacted] had, in fact, broken into multiple vehicles.

[redacted] was armed with a loaded semiautomatic firearm when he was contacted by Moreno and Contreras. [redacted] drew the gun from his pants pocket and began to turn toward the deputies when they exited their marked patrol unit. [redacted]'s actions placed Moreno and Contreras in reasonable fear of serious bodily injury or death and they responded with reasonable deadly force. It is not reasonable to expect Moreno and Contreras under these circumstances to wait and see what [redacted] was going to do with the gun before defending themselves. Additionally, under the doctrine of transferred intent, the reasonableness of the force used against [redacted] applies to the round that inadvertently struck [redacted] in the leg.

We conclude that Deputies Eric Moreno and Eugene Contreras acted in lawful self-defense and defense of others when they used deadly force against [redacted] and [redacted] We are therefore closing our file and will take no further action in this matter.